

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

STATE OF NEW JERSEY,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, SHAILEN BHATT, in his official capacity as Administrator of the Federal Highway Administration, and RICHARD J. MARQUIS, in his official capacity as Division Administrator of the New York Division of the Federal Highway Administration,

Defendants.

Civil Action No. 23 Civ.

03885

Hon. Brian R. Martinotti

MOTION FOR LEAVE OF AMICI CURIAE EMPOWERNJ, NEW JERSEY POLICY PERSPECTIVE, HEALTH PROFESSIONALS & ALLIED EMPLOYEES, CLEAN WATER ACTION, TURNPIKE TRAP COALITION, HUDSON COUNTY COMPLETE STREET, SOMA ACTION, UNITARIAN UNIVERSALIST FAITH ACTION NJ, PINELANDS PRESERVATION ALLIANCE, BIKE NORTH BERGEN, ECOPOETRY.ORG, DON'T GAS THE MEADOWLANDS, ISLES, INC, BIKEJC, SAFESTREETSJC, 350NJ-ROCKLAND, HACKENSACK RIVERKEEPER, PEOPLE OVER PIPELINES, FUND FOR A BETTER WATERFRONT, NEWARK GREEN TEAM, ACTION TOGETHER NEW JERSEY, NEW JERSEY ASSOCIATION OF RAILROAD PASSENGERS, BLUEWAVENJ, BIKE SOMA, NEWARK SCIENCE AND SUSTAINABILITY INC., OUR REVOLUTION NJ, BICI UC, FRIENDS OF LIBERTY STATE PARK, NEW JERSEY ENVIRONMENTAL LOBBY, NEW JERSEY WORK ENVIRONMENT COUNCIL, NEW JERSEY CITIZEN ACTION, SOUTH WARD ENVIRONMENTAL ALLIANCE, NEW JERSEY WORKING FAMILY PARTY AND BIKE HOBOKEN TO FILE AN *AMICUS CURIAE* BRIEF IN SUPPORT OF DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT

John H. Reichman
(Bar No. 003981983)
Johnreichmanlaw LLC
56 Oakwood Avenue
Montclair, NJ 07043
(917) 626-8025

Amici curiae EmpowerNJ, New Jersey Policy Perspective, Health Professionals & Allied Employees, Clean Water Action, Turnpike Trap Coalition, Hudson County Complete Street, SOMA Action, Unitarian Universalist Faith Action NJ, Pinelands Preservation Alliance, Bike North Bergen, EcoPoetry.org, Don't Gas the Meadowlands, Isles, Inc, BikeJC, SafeStreetsJC, 350NJ-Rockland, Hackensack Riverkeeper, People Over Pipelines, Fund for a Better Waterfront, Newark Green Team, Action Together New Jersey, New Jersey Association of Railroad Passengers, BlueWaveNJ, Bike SOMA, Newark Science and Sustainability Inc., Our Revolution NJ, Bici UC, Friends of Liberty State Park, New Jersey Environmental Lobby, New Jersey Work Environment Council, New Jersey Citizen Action, South Ward Environmental Alliance, New Jersey Working Family Party, and Bike Hoboken (collectively, "*amici*") respectfully move for leave to file an *amicus curiae* brief in this matter.¹ The proposed *amicus* brief is attached as Exhibit 1.

1. All parties have consented to this requested relief.

INTEREST OF THE *AMICI CURIAE*

Amici are thirty-four organizations representing a broad array of interests ranging from environmental protection, effective transportation, equity in the

¹ *Amici* state that no counsel for any party authored this brief in whole or in part and no entity or person, aside from *amici*, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

provision of public services, and equity in environmental policy and enforcement all united in their goal of making the New Jersey a safe, healthy, and fair community.

EmpowerNJ is a coalition of 140 environmental, civic, faith, and progressive organizations that advocates for prohibiting new fossil fuel projects and reducing greenhouse gas emissions in New Jersey. It regularly participates in judicial, administrative, and legislative proceedings in New Jersey.

New Jersey Policy Perspective is a nonpartisan think tank that drives policy change to advance economic, social, and racial justice through evidence-based, independent research, analysis, and strategic communications.

Health Professionals & Allied Employees is a healthcare union representing 14,000 nurses and healthcare professionals.

Clean Water Action's mission is to develop strong community-based environmental leadership and coalition partners; bring together diverse constituencies to work cooperatively for clean, safe and affordable solutions to water, waste, toxics and energy issues that address public health, environmental, consumer and community problems, and; make the democratic process more accessible, inclusive and effective for people most affected and with an eye towards environmental, social, civic and economic justice. For over 40 years, Clean Water Action has conducted innovative community-based and statewide campaigns that have yielded long term protections in New Jersey. Since 1982, Clean Water Action

has staffed and operated offices throughout New Jersey with 1 million nationwide and 150,000 New Jersey members and 75,000 email subscribers.

Turnpike Trap Coalition is a coalition of grassroots organizations from around New Jersey standing together to stop the proposed widening of the Newark Bay Hudson County extension of the New Jersey Turnpike.

Hudson County Complete Streets's ("HCCS") mission is to improve connectivity and transportation equity in Hudson County by advocating for safe streets, pedestrian and cycling infrastructure, and access to transit in each community. HCCS believes a more connected Hudson County that is safe for pedestrians, cyclists, scooters, skaters, people in wheelchairs, and other vulnerable road users will promote the health and well-being of our more than 750,000 residents by providing people of all ages and abilities with more mobility options.

SOMA Action is a grassroots organization in South Orange and Maplewood, New Jersey focused on driving progressive change in our democracy and on vital issues such as climate change, racial and religious justice, and gun violence.

Unitarian Universalist Faith Action NJ envisions a just New Jersey free from systemic oppression and greed, full of engaged people committed to each other, to our communities, and to the earth. It coordinates grassroots social justice advocacy with its member congregations and individuals and allies across the state and works

to establish a just and compassionate public policy that is consistent with Unitarian Universalist principles and purposes.

Pinelands Preservation Alliance is the leading voice for protecting the natural and cultural resources of the New Jersey Pinelands.

Bike North Bergen is dedicated to advocacy efforts for safer streets in the Township of North Bergen, New Jersey and believes that. pedestrians, people on bicycles and other active modes of transportation and micro-mobility need robust infrastructure to move around safely in the densest metro-area in the United States.

EcoPoetry.org is a group of authors, essayists and poets who promote clean energy and recognize that the climate crisis is a dire emergency and an existential threat to the planet.

Don't Gas the Meadowlands advocates for reducing air pollution and GHG emissions in New Jersey, focusing on projects in the northeastern part of the State.

Isles, Inc is a community development and environmental organization located in Trenton, New Jersey. It works to ensure Trenton and other small cities are healthy, sustainable communities where people want to live, work, and visit.

BikeJC is a volunteer-led nonprofit organization advocating for better, safer, more accessible, and more equitable biking in Jersey City. It organizes group rides and educational events, focused on biking as transportation.

SafeStreetsJC works towards Vision Zero in Jersey City, advocating for cleaner air, safer streets, and investments in mass transit.

350NJ-Rockland is active in New Jersey and southern New York in organized efforts to oppose new fossil fuel infrastructure, advance wind and solar and advocate for divestment from fossil fuels on the part of NJ and NY public pension funds.

Hackensack Riverkeeper defends the Hackensack River Watershed through a fourfold strategy of environmental action, advocacy, education, and litigation. The organization employs that strategy on behalf of the people and wildlife that depend on the river and its watershed for life.

People Over Pipelines endeavors to promote clean energy jobs and renewable energy sources and seeks a moratorium on all new fossil fuel projects.

Fund for a Better Waterfront was founded on the belief that the waterfront belongs to the people. For the last 30 years it has pursued its vision of a contiguous public park along the Hudson River, achieving a large portion of its goal in Hoboken.

Newark Green Team is a multi-sector coalition of local stakeholders working to advance policies and programs related to urban sustainability, environmental health, community greening, quality of life, and green economic opportunities for Newark residents.

Action Together New Jersey is the premier organization in New Jersey that led the largest expansion of Vote By Mail, voting rights with “Ballot Cure”, and ballot access with secure ballot drop boxes.

New Jersey Association of Railroad Passengers (“NJ-ARP”) is the leading consumer rail passenger organization within New Jersey. NJ-ARP was established in 1980 by concerned New Jersey residents who wanted a greater voice in deciding their future transit. It testifies at hearings held by New Jersey Transit, PATH, Amtrak, PATCO, and other governmental agencies and has been on the forefront in advocating efficient intermodal transportation solutions using rail, light rail, ferry, bus, and bicycle.

BlueWaveNJ is a grassroots, progressive organization seeking solutions through community. Its working groups, conferences, marches, and special events have mobilized voters and coalitions to demand positive change from legislators at the state and federal level in such critical areas as health care, the economy, marriage equality, the environment, education, electoral reform and sensible gun control.

Bike SOMA is a New Jersey-based advocacy group calling for complete streets compliant designs in the Maplewood and South Orange area. Our goal is to reduce traffic violence, achieve vision zero, and improve our environment.

Newark Science and Sustainability Inc. is a community-driven, 501c3 nonprofit organization based in Newark, New Jersey that creates generational

sustainability through the implementation of educational programs, agricultural training, and community green development initiatives to ensure eco-conscious communities and healthy food access locally and globally.

Our Revolution NJ is a progressive political advocacy group focused on four things in New Jersey: Abolishing the County Line, Police Accountability, Climate Change, and Medicare For All. It works to support climate projects including increasing the performance and usage of public transit as a key step in addressing climate change.

Bici UC advocates for complete streets in Union City, NJ.

Friends of Liberty State Park's mission is to protect and improve LSP for the benefit of the quality of life of urban residents in crowded, congested, concrete, polluted and noisy Hudson County. It opposes LSP privatization and commercialization plans which will bring more traffic into and around LSP and block people's access to Liberty State Park.

New Jersey Environmental Lobby is an independent, non-partisan organization that engages in advocacy to protect New Jersey's natural resources and the quality of life of its residents. NJEL focuses its efforts on legislation and regulations for clean air, clean water, protection from toxins, and sustainable land use. NJEL's education arm, the Environmental Education Fund, engages in a variety

of public education and outreach activities to increase the public's awareness and knowledge of the environmental issues that affect them.

New Jersey Work Environment Council is an alliance of labor, community, and environmental organizations working together for safe, secure jobs, and a healthy, sustainable environment. WEC links workers, communities, and environmentalists through training, technical assistance, grassroots organizing, and public policy campaigns to promote dialogue, collaboration, and joint action. Formed in 1986, WEC is the nation's oldest state labor/environmental (or "blue/green") coalition.

New Jersey Citizen Action is a statewide coalition and grassroots organization that fights for social, racial, and economic justice for all. A nonprofit 501(c)(4) organization founded in 1982, NJCA combines political advocacy, electoral campaigns, public outreach, and community empowerment programs to make a real difference in the lives of everyday New Jerseyans. With this comprehensive approach, the organization addresses systemic and institutional issues as well as the pressing needs and interests of low- and moderate-income individuals across the state and advances the interests of working families, including in health care, financial justice, workplace protections, anti-poverty and tax fairness.

South Ward Environmental Alliance (SWEA) is an alliance of residents and community-based organizations with a focus on environmental justice issues in the

South Ward of Newark, New Jersey. SWEA's mission is to cultivate healthy and vibrant neighborhoods by ensuring residents' voices are heard and they are active participants in decision making policies that impact their neighborhood. South Ward Environmental Alliance will cultivate residents to be: Informed, Empowered and Engaged on key environmental issues that impact their health and quality of life.

New Jersey Working Family Party is a grassroots independent political organization fighting for a government that represents the needs and values of working families. We elect candidates who share our values and organize campaigns to advance progressive policies. Together we're building a movement of working families to build a New Jersey for the many, not the few.

Bike Hoboken strives to make Hoboken more bike-friendly and our streets safer for everyone.

To achieve their respective missions, *amici* participate in filing *amicus curiae* briefs in cases, like this one, that raise issues of significant concern to the populace in the New Jersey area. As relevant here, *amici* have a strong interest in ensuring the congestion pricing program approved by the United States Department of Transportation and Federal Highway Administration goes into effect, thereby realizing the significant quality of life and environmental benefits it was designed to achieve for *amici*'s constituents in New Jersey.

ARGUMENT

Courts within the Third Circuit, including courts in this district, grant motions for leave to file an *amicus curiae* brief where the proposed *amici* have demonstrated “a sufficient ‘interest’ in the case,” and have shown that the proposed brief was “desirable” and that it “discusses matters that are ‘relevant to the disposition of the case.’” *Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 129 (3d Cir. 2002); *see also, e.g., C.P. v. New Jersey Dep’t of Educ.*, No. 19-cv-12807, 2019 WL 6907490, at *1 (D.N.J. Dec. 18, 2019) (applying *Neonatology Associates* and granting leave to file an *amicus* brief); *W.F. v. Roman Cath. Diocese of Paterson*, No. 20-cv-7020, 2021 WL 2500616, at *4 n.3 (D.N.J. June 7, 2021) (same); *Ferreras v. Am. Airlines, Inc.*, No. 16-cv-2427, 2017 WL 1156737, at *3 (D.N.J. Mar. 28, 2017) (same); *Acra Turf Club, LLC v. Zanzuccki*, No. 12-cv-2775, 2014 WL 5465870, at *6 (D.N.J. Oct. 28, 2014) (same); *United States v. Alkaabi*, 223 F. Supp. 2d 583, 592 (D.N.J. 2002) (same). An *amicus* brief “may provide important assistance to the court” even in circumstances where “a party is very well represented.” *Neonatology Assocs., P.A.*, 293 F.3d at 132. This includes, for example, a brief that “explain[s] the impact a potential holding might have on an industry or other group” or provides “particular expertise.” *Id.* (quotation marks omitted).

Amici respectfully submit that this same result is proper here. *Amici*’s status as voices of a broad coalition of groups representing a wide range of members with

diverse interests and constituencies and in diverse industries, gives them an “interest” in ensuring that the congestion pricing program approved by the United States Department of Transportation and Federal Highway Administration goes into effect, thereby realizing the significant quality of life and environmental benefits it was designed to achieve in the New Jersey area. *See* Ex. 1 at 2-3. *Amici*’s proposed brief thus offers valuable additional perspective, beyond that submitted by the parties, on the important quality of life and environmental benefits that would be denied to their constituents and others in and around New York City if the Court were to grant Plaintiff’s requested relief and delay the congestion pricing program, which directly explains “the impact” this Court’s holding would “have on an industry or other group.” *Neonatology Assocs.*, 293 F.3d at 132.

CONCLUSION

The Court should grant leave to file the attached *amicus* brief.

Dated: December 15, 2023

Respectfully submitted,
/s/ John H. Reichman

John H. Reichman
(Bar No. 003981983)
Johnreichmanlaw LLC
56 Oakwood Avenue
Montclair, NJ 07043
(917) 626-8025